



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 22, 2010

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston, Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368

OR2010-14372

Dear Ms. De La Garza:

~~You ask whether certain information is subject to required public disclosure under the~~  
Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was  
assigned ID# 399320.

The Houston Police Department (the "department") received a request for information  
pertaining to a specified incident. You state the department has released some of the  
requested information to the requestor. You claim that the submitted information is excepted  
from disclosure under sections 552.101 and 552.108 of the Government Code. We have  
considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Initially, we note that the submitted information includes documents filed with a court,  
which are expressly public under section 552.022(a)(17) of the Government Code. *See*  
Gov't Code § 552.022(a)(17). Such information must be released unless it is expressly  
confidential under "other law." You claim the court-filed documents are excepted from  
disclosure under section 552.108 of the Government Code. However, section 552.108 is a  
discretionary exception that protects a governmental body's interests and is, therefore, not  
"other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative  
of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open  
records letter does not reach and, therefore, does not authorize the withholding of any other requested records  
to the extent that those records contain substantially different types of information than that submitted to this  
office.

at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the department may not withhold the court-filed documents, which we have marked, under section 552.108 of the Government Code.

We note that the court-filed documents contain information that is subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 excepts from public disclosure information that relates to a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(2). Upon review, we find the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.<sup>3</sup>

We now address your argument under section 552.108 of the Government Code for the information that is not subject to section 552.022. Section 552.108 of the Government Code excepts from public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 552.108 (a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining information relates to open and pending criminal investigation. Based upon your representation and our review, we conclude that the release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See Houston Chronicle*, 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

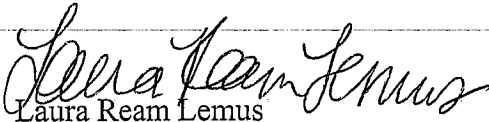
<sup>3</sup>This office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information in the court-filed documents we have marked must be released pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>4</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/eb

Ref: ID# 399320

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>As our ruling is dispositive, we need not address your remaining arguments against the disclosure of portions of the submitted information.